

**Form 2 – Commercial Recreation Activity****Application for Approval of a Prescribed Activity**

*Cairns Regional Council Local Law No. 1 (Administration) 2011*  
*Cairns Regional Council Subordinate Local Law No. 1 (Administration) 2011*  
*Schedule 8 - Prescribed Activity: Commercial Use of Local Government Controlled Areas and Roads*

Year: 2012/2013

You MUST complete ALL questions unless the form indicates otherwise. Incomplete forms or forms without all necessary information and documentation will result in your application not being a properly made application.

For all applications, you must:

- complete this form
- complete and provide any supporting documents, information and materials identified on this form as being required to accompany your application
- submit the fee applicable

**Business details**

Trading name

Business name

ABN

Business address

Applicant's name

Postal address

  

Manager's name

Manager's contact phone number

Business phone number

Business fax number

Business e-mail address

**Proposed Location of Commercial Recreation Activity**

Location

Locality/Suburb

Entry & Exit Point/s

**Description of activity**

Provide a brief description of the proposed commercial recreation activity detailing the days and hours of operation.

**Motorised Vehicles used for activity**

Provide a brief description of the number and types of vehicles associated with the operation of the proposed commercial recreation activity.


**Supporting documents, information and materials required to complete this application.  
Please complete this checklist in full**
*(Please tick or indicate N/A where the question is not applicable)*

Please attach a letter of <b>consent</b> from the owner of the land.	<input type="checkbox"/>	
Please attach an <b>Environmental Management Plan</b> .	<input type="checkbox"/>	
Please attach a <b>Recreation Activity Management Plan</b> .	<input type="checkbox"/>	
Please attach a <b>Risk Management Plan</b> – (Endorsed by the local branch of the State Emergency Services and, if the activity is water based or to be conducted in a bathing reserve, foreshore or beside any water course, the Queensland Surf Lifesaving Squad).	<input type="checkbox"/>	
Please attach a statement detailing <b>experience and qualifications</b> of all staff.	<input type="checkbox"/>	
Please attach a <b>sketch plan</b> of the proposed location and layout of the activity including details of, building and other structures, all entry and exit points to the site; and any other commercial operators who are currently operating from the proposed site or adjacent to the proposed site.	<input type="checkbox"/>	
Please attach a copy of your <b>certificate</b> of business/company name registration.	<input type="checkbox"/>	
Please attach a copy of your <b>Public Liability Insurance</b> to the value of \$10,000,000.00 noting Cairns Regional Council as an interested party.	<input type="checkbox"/>	

**Personnel/Customers**
*(insert the number)*

How many persons will be employed as part of the commercial recreation activity?	
How many customers are to be taken to the proposed site at any one time?	
What is the total number of customers proposed to be taken to the proposed location per year?	

**Fee for New Application****\$**

Application Fee	<b>\$ 210.00</b>
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**Upon renewal of your licence or if you wish to modify your licence the following fees will apply:**

Renewal Application Fee \$111.30

Modification to Licence Fee \$32.40

**Term of approval:** The term of approval is the period stated on the approval.

**Term of renewal of approval:** The term of any renewal of an approval is the same term as the original approval subject to compliance with all conditions stated on the approval.

## Conditions that must be imposed on approvals

The following conditions are conditions that must be imposed on approvals—

- (a) The approval holder, its contractors or agents must—
  - (i) conduct the commercial recreation activity on the days and hours specified on the approval;
  - (ii) adhere to the safety standards;
  - (iii) indemnify the local government against all liability directly or indirectly associated with the activity;
  - (iv) take out a public liability insurance policy in the amount specified in the approval in the name of the operator and the local government;
  - (v) provide to its customers or any other persons undertaking the activity all necessary or appropriate safety equipment, warnings and instruction;
  - (vi) comply with all reasonable directions of an authorised person in the time specified by the authorised person.

## Conditions that will ordinarily be imposed on approvals

The following conditions are the conditions that will ordinarily be imposed on an approval, where applicable in the opinion of an authorised person—

- (a) The approval holder, its contractors or agents may be required to—
  - (i) supply a written report advising compliance with the approval must be submitted to the Chief Executive Officer on an annual basis;
  - (ii) be responsible for any costs or expenses incurred by local government for rectifying any damage caused by the activity;
  - (iii) make smoking receptacles available to collect cigarette butts, lighted matches, tobacco products or any other lit materials;
  - (iv) ensure that vegetation, soil, sand, rocks, native animals or natural things are not interfered with, damaged or removed;
  - (v) not interfere with, paint, permanently mark, damage or remove any buildings, structures, fixtures, fittings or facilities provided by local government;
  - (vi) not erect any permanent or temporary buildings, signs or structures upon the approved activity area without the written consent of local government;
  - (vii) ensure that litter is collected and lawfully disposed at a local government waste transfer station;
  - (viii) ensure that portable toilets are supplied as directed by local government;
  - (ix) ensure that waste from portable toilets is collected by a regulated waste transporter and disposed of lawfully at a facility licensed to accept such waste
  - (x) ensure that serving or selling any food, refreshments, souvenirs or other retail items is prohibited unless written approval of local government;
  - (xi) ensure that cleaning, maintaining or repairing any vehicle, vessel, aircraft or other equipment except for emergency repairs is prohibited;
  - (xii) ensure that activities are not permitted within 30 metres of a deployed stinger net;
  - (xiii) advise the means by which impacts on the environment must be minimised;
  - (xiv) advise the means by which impacts on the amenity of neighbouring areas must be minimised;

- (xv) ensure that its customers and all other persons undertaking the activity are accompanied and supervised by a person holding a recognised first aid certificate and all other certifications required by any State or Commonwealth authority;
- (xvi) only permit experienced and competent guides, agents or supervisors to oversee the operation of the activity;
- (xvii) accept full responsibility for the safe transportation of customers and all other persons undertaking the activity;
- (xviii) provide information, explanations, cautions and warnings to customers and all other persons undertaking the activity regarding the hazards likely to be encountered by them when the activity is undertaken;
- (xix) ensure that any motor vehicle, vessel, aircraft or other machinery used in connection with the activity, complies with all safety requirements and regulations and are operated in accordance with requirements, guidelines or recommendations published from time to time by the manufacturer or any State or Commonwealth authority;
- (xx) identify the points at which an operator is to access the site for the purpose of undertaking the commercial recreation activity;
- (xxi) state the number of customers to be taken to the site at any one time;
- (xxii) include the programming of a commercial recreation activity on the site;
- (xxiii) include the use of any roads, jetties, foreshores or other means of accessing the site;
- (xxiv) include the amenities or facilities to be provided for use by customers.

**Declaration:**

To the Chief Executive Officer, Cairns Regional Council

I / We make application under *Cairns Regional Council Local Law No. 1 (Administration) 2011* to conduct the prescribed activity outlined in this form.

**Print Name:**

**Signature:**

**Dated:**

***Cairns Regional Council – Information Privacy Statement***

Your personal information has been collected for the purpose of assessing your Application for Approval. The collection of your information is authorised under the *Local Government Act 2009*. You are providing personal information which will be used for the purpose of delivering services and carrying out Council business. Your personal information is handled in accordance with the *Information Privacy Act 2009* and will be accessed by persons who have been authorised to do so. Your information will not be given to any other person or agency unless you have given Council permission or the disclosure is required by law.

**OFFICE USE**

Does the application fit the criterion for granting of approval?	<b>YES</b>		<b>NO</b>	
<p><b>4. Additional criteria for the granting of approval.</b>  <i>The following criteria are criteria that must be considered for the granting of approval –</i>            (a) <i>whether in the opinion of an authorised person the proposed activity would –</i>            (i) <i>adversely effect the amenity of the area or road and/or the environment; or</i>            (ii) <i>adversely effect existing services located in, on or over an area or road.</i></p>				
<b>PAYMENT DETAILS:</b>	<b>Receipt Type 232</b>	<b>Payment Amount \$</b>		<b>Receipt No:</b>

# **Cairns Regional Council Local Law No. 1 (Administration) 2011**

## **APPROVALS FOR PRESCRIBED ACTIVITIES**

### **Section 8 - Form of Application**

- (1) An application for the local government's approval of a prescribed activity must be made in a form approved by the local government.

*Examples of a form approved by the local government –*

A written form or an online application process.

- (2) The application must be accompanied by –

- (a) documents and materials required under a subordinate local law for this paragraph; and
- (b) proof that the applicant currently holds any separate approval relating to the prescribed activity that is required under another law; and
- (c) the prescribed fee.

*Example for paragraph (a) –*

*The local government may require an application to include site plans, management plans, relevant consents, evidence of public liability insurance, etc.*

*Example for paragraph (b) –*

*A prescribed activity may require approvals under another Act in relation to development, building, liquor, carriage of goods, business licensing, etc.*

- (3) The local government may, by written notice, request the applicant to provide further reasonable information or clarification of information, documents or materials included in the application.

- (4) The notice under subsection (3) must state –

- (a) the grounds on which the request is made; and
- (b) an outline of the facts and circumstances forming the basis for the grounds; and
- (c) a detailed description of the information requested; and
- (d) the date, not less than 7 days after the applicant receives the notice, by which the applicant must provide the information.

- (5) If the applicant does not, without reasonable excuse, provide the further information by the stated date –

- (a) the application lapses; and
- (b) the local government must give the applicant written notice stating that –
  - (i) under this section the application lapses; and
  - (ii) the applicant may make a new application.

- (6) However, the local government may extend the period for the applicant to provide the further information.

- (7) A person must not provide information in or in connection with an application that is, to the person's knowledge, false or misleading in a material particular.

Maximum penalty for subsection (7) – 20 penalty units

## Section 9 – Local government’s discretion in granting approvals

- (1) The local government may grant an approval for an applicant to undertake a prescribed activity only if it satisfied that –
- (a) if the prescribed activity requires a separate approval under an Act, a law of the Commonwealth or the local government’s planning scheme – the separate approval has been granted; and
  - (b) the proposed operation and management of the prescribed activity is adequate to protect public health, safety and amenity and prevent environmental harm; and
  - (c) the grant of the approval would be consistent with the purpose of any relevant local law; and
  - (d) the proposed operation and management of the prescribed activity would be consistent with any additional criteria prescribed for the activity under a subordinate local law for this paragraph; and
  - (e) if the application relates to trust land – the grant of the approval would be consistent with the terms and conditions of the trust; and
  - (f) if the application relates to a prescribed activity mentioned in section 5(b) – the grant of the approval would be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval.

*Example for paragraph (a) –*

*An application for commercial use of a local government controlled area that is held in trust by the local government under the Land Act 1994 may require registration of a trustee lease or issue of a trustee permit prior to the approval being granted for commercial use of the area.*

- (2) The local government may, by written notice to the applicant –
- (a) grant the approval unconditionally; or
  - (b) grant the approval subject to conditions determined in accordance with section 10; or
  - (c) refuse to grant the approval.

*Examples for paragraph (b) –*

- a. *If an application for which the local government’s approval is required may result in damage to property, the local government may, as a condition of giving its approval, require the applicant to give reasonable security (which may include a deposit of money, a guarantee or an insurance bond) to ensure that the damage is made good.*
- b. *The local government may grant an approval subject to the standard conditions imposed on the approval pursuant to a subordinate local law made under section 10(3) of this law.*

- (3) However, the local government’s powers in deciding the application are subject to the provisions of any relevant local law.
- (4) The local government must give the applicant an information notice if the local government –
- (a) refuses to grant the approval; or
  - (b) grants the approval subject to a non-standard condition.

- (5) In this section –

**Non-standard condition** means a condition that is not prescribed under section 10(3) as a condition that must be imposed on an approval or that will ordinarily be imposed on an approval.

## Section 10 – Conditions of approval

- (1) An approval may be granted on conditions the local government considers appropriate.
- (2) However, the conditions must –
  - (a) be reasonably necessary to ensure that the operation and management of the prescribed activity will be adequate to protect public health, safety and amenity and prevent environmental harm; and
  - (b) be consistent with the purpose of any relevant local law; and
  - (c) if the approval is for prescribed activity mentioned in section 5(b) – be consistent with any requirements or criteria specified in the relevant Local Government Act in relation to the approval; and
  - (d) not conflict with the conditions of any other relevant approval issued under an Act; and
  - (e) require the approval holder to notify the local government in writing of a suspension or cancellation of a relevant approval for the prescribed activity under an Act within 3 days of the relevant approval being suspended or cancelled.
- (3) Subject to subsection (2), the local government may, by subordinate local law, prescribe conditions that must be imposed on an approval or that will ordinarily be imposed on an approval.
- (4) To remove any doubt, it is declared that a condition of an approval may authorise an act or omission that –
  - (a) contravenes a noise standard; or
  - (b) causes an environmental nuisance.<sup>3</sup>

*Example for paragraph (a) –*

*A condition of an approval for operation of a temporary entertainment event may authorise the operation of an amplifier device at specified times that would otherwise be a contravention of the noise standard in the Environmental Protection Act 1994 section 440Y.*

- (5) In this section –  
**environmental nuisance** see *Environmental Protection Act 1994*, section 15.

Noise standard see *Environmental Protection Act 1994*, section 440K.

## **GUIDE TO RISK MANAGEMENT PLAN**

### **Section 3 – Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval –

- (a) application form
- (b) application fee (determined within Council's Schedule of Fees and Charges); and
- (c) documents, information and materials identified within the relevant approved application form.

A Risk Management Plan (RMP) relating to your proposed Commercial Recreation Activity should be submitted with your proposal. Your RMP may contain the following components:

(1) Duty of care to workers and contractors

The operator should demonstrate that it has strategies in place that can be immediately implemented for the safety and welfare of its employees, contractors and subcontractors using the area of operation. Examples of documentation that demonstrate appropriate measures include:

- Workplace Health and Safety Manual, including standards for such considerations as sun protection and lifting procedures, training for operation and maintenance of equipment etc.
- Hazard Inspection Forms
- Incident Report Forms
- Training Itineraries
- Code of Conduct handout for employees, etc.

(2) Duty of care to participants and customers

The operator should demonstrate that it has strategies in place that can be immediately implemented for the safety and welfare of customers and other participants, including potential bystanders. Examples of documentation that demonstrate appropriate measures include:

- Tour Itinerary and map indicating "no go" zones (if applicable)
- Qualifications of leaders and emergency contacts
- Contingency measures if staff become unable to lead (through injury, sudden illness, attending to another emergency etc)
- Educational handout that identifies potential risks and hazards and corresponding precautions for fire, injury, fatigue, dehydration etc.
- Training checklist for participants that use equipment (e.g. snorkels, diving equipment, abseiling equipment, etc)
- Quantity list of safety equipment, such as life jackets, two way radios, compasses and maps (if applicable), First Aid Kits, vehicles
- Procedure for assessment of participants ability/suitability for the activity and use of equipment (if applicable)
- Indemnity forms



## **GUIDE TO ENVIRONMENTAL MANAGEMENT PLAN**

### **Section 3 – Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval –

- (a) application form
- (b) application fee (determined within Council's Schedule of Fees and Charges); and
- (c) documents, information and materials identified within the relevant approved application form.

An Environmental Management Plan (EMP) relating to your proposed Commercial Recreation Activity should be submitted with your proposal. Your EMP may contain the following components:

- Details of activity
- Details of location from which the activity is launched
- Area required for operation and possible routes proposed to be used
- Efforts to protect animal life on land and in water in the area proposed for the activities, particularly rare or threatened species, but also general wildlife integral to the experience (e.g. dolphins, turtles) and endemic to the area, where such efforts might include prevention of killing, injuring, collection (e.g. coral), frightening, disrupting the traffic of, or displacing the feeding areas of the animals
- Efforts to protect plant life on land or in the water in the area of your activities, particularly rare or threatened species, but also general vegetation integral to the experience and endemic to the area, where such efforts might include prevention of removal, damage or contamination of plant life. Contamination would include the introduction of weeds and pest species
- Efforts to minimize the potential effects of erosion that your commercial recreation activity might cause, where such erosion might include introduction of tracks and channels, removal of vegetation that binds the soil or prevents the effect of wind and water, impacts on embankments, etc
- Efforts to protect areas or items of historical and cultural heritage, particularly aboriginal and pioneering sites
- Efforts to minimize the potential effects of material pollution that your commercial recreation activity might cause, where such pollution may include litter, fuel spillage, soaps and chemicals, toilet stops, animal droppings, turbidity of clear water etc
- Efforts to minimize impacts on the visual amenity that your commercial recreation activity might cause, where such pollution might include signage, inappropriate structures, poorly presented equipment, etc
- Efforts to minimize noise pollution that your commercial recreation activity might cause, where such pollution might arise from engine noise, equipment such as radios or television, overly rowdy behaviour, whistles or horns, etc.

## **GUIDE TO RECREATION ACTIVITY MANAGEMENT PLAN**

### **Section 3 – Documents and materials that must accompany applications for approval**

The following documents and materials must accompany an application for an approval –

- (a) application form
- (b) application fee (determined within Council's Schedule of Fees and Charges); and
- (c) documents, information and materials identified within the relevant approved application form.

A Recreation Activity Management Plan (RAMP) relating to your proposed Commercial Recreation Activity should be submitted with your proposal. Your RAMP should contain the following components:

- Details of Activity
- Details of Location
- Area required for operation (especially applicable to beach hire operations)
- Times of Operation (ie months, days, times)
- Number of Trips per day (and times of each trip)
- Maximum number of participants to be catered for (per trip, per day, & per year)
- Expected number of participants (per year)
- Exact Location of activity including map showing exact locations including entry and exit points and any significant points of the tour (eg lunch stop)
- Vehicles or Vessels to be used
- Number of staff required to undertake the activity
- Tour Itinerary (if applicable)
- Details of any equipment display (eg Beach Hire Equipment, Signs etc in compliance with Australian Standards & ISO)
- Safety Management
- Any other details in relation to your activity